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U.S. Department of Justice

Immigration and Naturalization Service

Identifying case deleted to
prevent identity information
disclosure of persons: private

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

File: EAC-99-224-51636

Office: Vermont Service Center

Date: 24 APR 2002

IN RE: Petitioner:
Beneficiary:

Petition: Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the "Act"), 8 U.S.C. 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. 1101(a)(27)(C)

IN BEHALF OF PETITIONER:

PUBLIC COPY

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Myra L. Rosenberg
for Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The immigrant visa petition was denied by the Director, Vermont Service Center. An appeal was dismissed by the Associate Commissioner for Examinations. The matter is again before the Associate Commissioner on motion to reopen. The motion will be dismissed.

The petitioner filed Form I-360 seeking classification of the beneficiary as a special immigrant religious worker pursuant to section 203(b)(4) of the Immigration and Nationality Act (the "Act"), 8 U.S.C. 1153(b)(4).

The visa petition was filed on July 19, 1999. It was denied by the center director in a decision dated July 7, 2000. The director denied the petition on the grounds that the petitioner failed to submit the documentation required to establish that the petitioner is a qualifying tax exempt religious organization pursuant to 8 C.F.R. 204.5(m)(3).

An appeal from the denial was dismissed by the Associate Commissioner on July 3, 2001. The decision found that the petitioner had failed to satisfy the documentary requirements of 8 C.F.R. 204.5(m)(3).

On motion to reopen, counsel for the petitioner now submits documents addressing the requirements of 8 C.F.R. 204.5(m)(3).

The untimely submission of initial evidence cannot be accepted on appeal. Where a visa petition is denied based on a deficiency of proof, the petitioner was put on notice of the required evidence and given a reasonable opportunity to provide it for the record before the visa petition is adjudicated, evidence submitted on appeal will not be considered for any purpose, and the appeal will be adjudicated based on the record of proceedings before the Service. Matter of Soriano, 19 I&N Dec. 764 (BIA 1988).

The decision of July 3, 2001, is affirmed.

The petitioner is free to file a new petition without prejudice.

ORDER: The motion is dismissed.